

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 CHARLES C. NORRIS,

5 Plaintiff,

6 v.

7 SHERIFF JOE LOMBARDO, *et al.*,

8 Defendants.
9

Case No. 2:19-cv-01424-KJD-DJA

ORDER

10
11 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §
12 1983 by a former state prisoner. On September 3, 2019, this Court issued an order
13 directing Plaintiff to file his updated address within the Court within thirty (30) days from
14 the date of the order. Further, Plaintiff was also directed to either: (1) file a fully complete
15 application to proceed *in forma pauperis* for non-prisoners; or (2) pay the full filing fee of
16 \$400.00 within thirty (30) days from the date of the order. (ECF No. 5). The thirty-day
17 period has now expired and Plaintiff has not filed an updated address with the Court and
18 has not filed an application to proceed *in forma pauperis* for non-prisoners, paid the full
19 filing fee, or otherwise responded to the Court's order.

20 District courts have the inherent power to control their dockets and "[i]n the
21 exercise of that power, they may impose sanctions including, where appropriate . . .
22 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
23 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
24 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
25 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
26 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
27 1992) (affirming dismissal for failure to comply with an order requiring amendment of
28 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal

1 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
2 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
3 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
4 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
5 local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey
7 a court order, or failure to comply with local rules, the court must consider several factors:
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
11 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
12 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 Here, the Court finds that the first two factors, the public's interest in expeditiously
14 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
15 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
16 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
17 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
18 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
19 disposition of cases on their merits—is greatly outweighed by the factors in favor of
20 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
21 the court's order will result in dismissal satisfies the "consideration of alternatives"
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
23 F.2d at 1424. The Court's order requiring Plaintiff to file an updated address and an
24 application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee within
25 thirty (30) days expressly stated: "If Plaintiff fails to timely comply with this order, the Court
26 shall dismiss this case without prejudice." (ECF No. 5 at 2.) Thus, Plaintiff had adequate
27 warning that dismissal would result from his noncompliance with the Court's order to file
28 an updated address and an application to proceed *in forma pauperis* for non-prisoners or

1 pay the full filing fee within thirty (30) days.

2 It is therefore ordered that this action is dismissed without prejudice based on
3 Plaintiff's failure to file an updated address and an application to proceed *in forma*
4 *pauperis* for non-prisoners or pay the full filing fee in compliance with this Court's
5 September 3, 2019 order.

6 It is further ordered that the Clerk of Court shall enter judgment accordingly.

7 DATED THIS 15 day of October, 2019.

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UNITED STATES DISTRICT JUDGE